

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

Blue Cross and Blue Shield
of Alabama, et al.,
Plaintiffs,
vs.

CVS Health Corporation, et al.,
Defendants.

Case No. 1:20-cv-236-WES-PAS

Case No. 1:20-cv-458-WES-PAS

Case No. 1:20-cv-507-WES-PAS

Case No. 1:20-cv-520-WES-PAS

Case No. 1:21-CV-223-WES-PAS

DEPOSITION

of Krystal Wheeler Dennis, taken
pursuant to notice to take oral
deposition, at the Law Office of
O'Keefe, O'Brien, Lyson Attorneys, 720
Main Avenue, Fargo, North Dakota 58103,
on the 31st day of May, 2023, before
Nathan D. Engen, a notary public in and
for the State of Minnesota.

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APPEARANCES:

Ms. Jamie Wolfe
Mr. Grant A. Geyerman
WILLIAMS & CONNOLLY LLP
Attorneys at Law
680 Maine Avenue SW
Washington, D.C. 20024
Appearing on behalf of the Defendants

Mr. Michael A. Petrino
STEIN MITCHELL BEATO & MISSNER LLP
Attorneys at Law
2000 K Street NW
Suite 600
Washington, D.C. 20006
Appearing on behalf of the Plaintiffs

1 A Similar to the responsibilities at the
2 other retail pharmacy where it would've
3 been filling medications, counseling
4 patients. Some adjudication of claims.

5 Q When you say that you had
6 responsibility for 'counseling
7 patients' at these three internships,
8 did that include counseling patients on
9 ways that they could save money on
10 their prescriptions?

11 A Not that I recall, no.

12 Q Did you hold any other internships
13 while you were at pharmacy school or
14 before pharmacy school?

15 A No.

16 Q So what was your first job after you
17 graduated in 2007?

18 A I worked for Thrifty White Pharmacy in
19 Grafton, North Dakota.

20 Q And what was your title there?

21 A I was the pharmacy manager.

22 Q What years did you work there?

23 A Roughly 2007 to 2012.

24 Q What were your responsibilities as the
25 pharmacy manager? Was that the

1 position you held the whole time?

2 A Yes.

3 Q And what were your responsibilities?

4 A Responsibilities included general
5 management of the pharmacy including
6 staff, technicians, oversight of the --
7 their abilities, filling prescriptions.

8 Q Did you also dispense prescriptions?

9 A Dispensing prescriptions.

10 Q Did you play any role in the
11 adjudication of transactions?

12 A Yes.

13 Q And what role was that?

14 A The technicians and myself as the
15 pharmacist would adjudicate the claims.
16 So we would enter in claims, relevant
17 claims, information for the -- for the
18 patient as well as for the
19 prescription.

20 And then process those
21 claims.

22 Q While you were working at Thrifty
23 White, do you remember if they had any
24 sort of membership program?

25 A Yes.

1 Q Can you tell me about that membership
2 program?

3 A Yes. What I recall is there was a
4 membership program that members had to
5 pay a fee for and they got access to a
6 list of medications at a certain price
7 point.

8 Q Did members have to enroll in the
9 program in order to get access to those
10 prices?

11 A They did have to sign up to be a part
12 of it, yes.

13 Q Do you remember what the enrollment fee
14 was?

15 A I don't remember what the enrollment
16 fee was.

17 MS. WOLFE: I'm gonna give
18 you something I'm marking as Exhibit 2.

19 REPORTER'S NOTE: Whereupon,
20 Krystal Wheeler Dennis
21 Deposition Exhibit Number 2
22 was marked for
23 identification.

24 MS. WOLFE: Thank you.

25

24 By Ms. Wolfe:

25 Q So this is a print off from the Thrifty

1 White website from July of 2013.

2 And if we look at this, we
3 see that customers could sign up for
4 the Rx Savings Club Plus and start
5 saving on over 350 generic drugs; is
6 that right?

7 A Yes, that is what it states.

8 Q And is that similar to your memory?

9 A Yes.

10 Q And according to this, the yearly
11 membership fee was \$10 for an
12 individual or \$15 for a family; is that
13 right?

14 A Yes, that is what it states.

15 Q And is that similar to your memory?

16 A Yes.

17 Q And it says that members could get a
18 90-day prescription for \$9.99, or
19 30-day supply for \$4; is that right?

20 A Correct.

21 Q And is that similar to what you
22 remember?

23 A Yes.

24 Q And insured people could join the
25 Thrifty White membership program even

1 if they had insurance; is that right?

2 A Yes.

3 Q Do you remember if there were any other
4 requirements for membership besides
5 enrollment and payment of the fee?

6 A I don't remember.

7 Q Did Thrifty White Pharmacy submit the
8 membership program price to insurance
9 companies as the usual and customary
10 price for the same drug quantity
11 purchase at that pharmacy by customers
12 using their insurance?

13 A I do not know.

14 Q So you have no recollection of whether
15 or not the membership program price at
16 Thrifty White was submitted as the
17 usual and customary price?

18 A I do not.

19 Q But you were the pharmacy manager at
20 Thrifty White while the program was
21 still in place?

22 A Correct.

23 Q And you had responsible for
24 adjudicating the prescriptions at
25 times?

1 A We did adjudicate the prescriptions on
2 the front end, but the process in which
3 those prescriptions were paid on the
4 back end was out -- outside of our
5 scope of work.

6 Q Could you see the usual and customary
7 price for drugs when you were
8 responsible for adjudicating it?

9 A I don't know.

10 Q At the time that you were working at
11 Thrifty White Pharmacy did you think it
12 was important to know whether or not
13 the membership program price was being
14 submitted as usual and customary?

15 A I don't know.

16 Q You don't know whether or not you
17 thought it was important?

18 A I don't. No. Again, at that time the
19 -- the pricing piece was all taken care
20 of behind the scenes. So it wasn't
21 something the pharmacists had direct
22 contact with.

23 Q When you say you don't know whether or
24 not you thought it was important, is
25 that because you don't remember whether

1 or not you thought it was important?

2 Or what do you mean by you don't know

3 if you thought it was important?

4 A I --

5 MR. PETRINO: -- objection;

6 form.

7 THE WITNESS: I don't recall

8 if I felt it was important.

9

10 By Ms. Wolfe:

11 Q But you worked at Thrifty White for at

12 least five years while the membership

13 program was being offered; is that

14 correct?

15 A I'm unsure if the membership program

16 was offered that entire time.

17 Q Do you remember if it was offered for

18 the majority of the time that you

19 worked at Thrifty White?

20 A I -- I don't recall the timeline on it.

21 Q Do you remember any discussions within

22 Thrifty White about whether the

23 membership program price should be

24 submitted as the usual and customary

25 price?

1 A I do not.

2 Q Do you remember anyone inquiring about
3 whether or not Thrifty White's
4 membership program price was being
5 submitted as the usual and customary
6 price?

7 A I do not recall, no.

8 Q Sitting here today, do you think it
9 would be important to know whether or
10 not Thrifty White was submitting its
11 membership program price as usual and
12 customary price?

13 A I do think it would it be important.

14 Q And why has your perspective on that
15 changed?

16 A Because of the -- the research and
17 knowing what I know today.

18 Q And when you refer to the 'research,'
19 are you referring to the research that
20 you conducted after this litigation was
21 filed?

22 A Correct.

23 Q So prior to this litigation being
24 filed, you don't recall whether or not
25 it would've been important to know if

1 membership program prices were being
2 submitted as U&C?

3 A I don't think I had ever thought of it.

4 Q After you worked at Thrifty White in
5 2012, what was your next position?

6 A My next position was also at Thrifty
7 White, and moved into a long-term care
8 facility type role.

9 Q And how long did you hold that position
10 for?

11 A Roughly four years.

12 Q So until around 2016?

13 A Correct.

14 Q What was your title within the
15 long-term care?

16 A I was a pharmacist for part of the time
17 there. And I was a pharmacy manager
18 for part of the time there.

19 Q And what were your responsibilities as
20 a pharmacist?

21 A Pharmacist would be filling the
22 medications, entering orders, making
23 medication administration records,
24 ensuring that members had correct
25 clinical overview of their -- their

1 Q And did you have people that reported
2 to you?

3 A No.

4 Q Then in 2020 you moved positions; is
5 that right?

6 A I think it was -- I think it was 2019.

7 Q Do you remember approximately what
8 month in 2019?

9 A It was May-ish of 2019.

10 Q And you became the director of pharmacy
11 operations?

12 A Correct.

13 Q What are your positions in that
14 position -- I mean what are your
15 responsibilities? I'm sorry.

16 A So, oversight of the pharmacy program
17 in general. We hold the relationship
18 with the PBM, so Prime Therapeutics.

19 We do formulary management,
20 clinical programs management, medical
21 drugs management, we operate all the --
22 the policies related to medical drug
23 managements that come out of our team.

24 We also do the prior
25 approvals and appeals. And then some